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RUEKJCS/JOINT STAFF WASHDC PRIORITY  
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHINGTON DC PRIORITY 0923  
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RUEKJCS/SECDEF WASHDC PRIORITY  
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C O N F I D E N T I A L SECTION 01 OF 02 TEGUCIGALPA 000215

SIPDIS

E.O. 12958: DECL: 03/26/2019  
TAGS: [PGOV](#) [KDEM](#) [KJUS](#) [SOCI](#) [HO](#)  
SUBJECT: (C) PRESIDENT OF THE SUPREME COURT PLEDGES TO WORK  
AGAINST CONSTITUENT ASSEMBLY POLL

REF: TEGUCIGALPA 210

Classified By: Ambassador Hugo Llorens, reason 1.4 (B & D)

11. (C) Summary: President of the Supreme Court Jorge Alberto Rivera Aviles expressed his concern to the Ambassador that President Manuel "Mel" Zelaya's attempts to push for a poll for a constituent assembly (reftel) could be an attempt to remain in power beyond his mandate. Rivera said he would personally do all within his power to stymie any attempt, adding that the Attorney General was another ally in this fight. Rivera outlined three different possibilities to limit any threat to Honduran democracy. The Ambassador underscored strong U.S. support for Honduran democracy and constitutional rule. End Summary.

12. (C) Prior to a scheduled meeting between the Country Team and the plenary of the Supreme Court, President of the Supreme Court Jorge Alberto Rivera Aviles asked the Ambassador for a private meeting to discuss President Zelaya's decree to hold a national opinion poll on a constituent assembly (reftel). Rivera told the Ambassador that he was very worried that Zelaya's intended to use the process to stay in power beyond his mandate, but added that he was going to do everything in his power to stop it. Rivera said that Zelaya was close to crossing the line, but that he could still be stopped at three specific points.

13. (C) Rivera said the first priority should be to stop the poll from taking place, and said that Attorney General Luis Rubi's statement against the poll was a first step. Rivera said he believed that the Attorney General will be a strong ally in this battle. According to Rivera, the case could be sent to the criminal or civil side of the Supreme Court. Rivera opined that it was preferable to proceed on the civil side, since a criminal action would greatly heighten tensions. Rivera said he believed that the Attorney General will argue the government decree authorizing the poll was unconstitutional and would seek its nullification. The Attorney General was expected to argue that the government could not carry out a poll that called for the modification of a non-amendable constitutional article (in this case, one prohibiting reelection of a president). Rivera said that the Supreme Court magistrate who would consider the civil case on

this matter is a highly respected judge and will make a sound legal judgment - which Rivera believed would result in the legal annulment of the government decree and prohibition of carrying out the poll.

¶4. (C) Rivera noted that in the event that Zelaya ignored the court ruling and moved to hold the poll, he expected that the National Elections Tribunal would deny Zelaya,s request for the referendum. Rivera added that even if the decree was not annulled by the court, he was reasonably confident that the Tribunal would deny the request since carrying out a referendum would require the approval of legislation in Congress. Finally, Rivera reasoned that even in the worse case scenario that the Tribunal somehow approved the referendum, he expected that Zelaya,s ploy could be defeated by stipulating that the actual constitutional assembly be held well into 2010, after Zelaya had left office.

Comment

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¶5. (C) Despite his serious concerns about the current situation, Rivera seemed fairly confident that by working together a united opposition could stop Zelaya from remaining in power beyond January 2010. We will continue to work closely with all sectors of society in support of the Honduran constitution and rule of law. We will also stay in close touch with the government to convey our concerns and press them to reassure the Honduran people and the international community of its commitment to support the current electoral process and not seek to remain in office

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beyond its constitutionally established term of January 29,  
¶2010.  
LLORENS